

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 881

Introduced by Speaker Kristensen, 37; Brashear, 4; Brown, 6;
Engel, 17; D. Pederson, 42; C. Peterson, 35;
Redfield, 12; Wehrbein, 2; at the request of the
Governor

Read first time February 1, 1999

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 8-1120, 44-116, 77-4602, and 77-4603, Reissue Revised
3 Statutes of Nebraska, and section 84-612, Revised
4 Statutes Supplement, 1998; to adopt the Direct Relief to
5 Property Taxpayer Act; to provide for transfer of funds;
6 to harmonize provisions; to repeal the original sections;
7 and to declare an emergency.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 15 of this act shall be known
2 and may be cited as the Direct Relief to Property Taxpayer Act.

3 Sec. 2. The purpose of the Direct Relief to Property
4 Taxpayer Act is to provide property tax relief for property taxes
5 levied against real property in Nebraska. The property tax relief
6 will be realized through efficiencies implemented in state
7 government and growth in the economy of the state. The property
8 tax relief will be made directly to qualified claimants who are
9 owners of qualified real property to assure the most direct
10 correlation of benefit to liability.

11 Sec. 3. The Direct Relief to Property Taxpayer Trust
12 Fund is created. The fund shall only be used pursuant to the
13 Direct Relief to Property Taxpayer Act. Any money in the fund
14 available for investment shall be invested by the state investment
15 officer pursuant to the Nebraska Capital Expansion Act and the
16 Nebraska State Funds Investment Act.

17 Sec. 4. On August 16, 1999, and August 16, 2000, the
18 State Treasurer shall transfer twenty-five million dollars from the
19 General Fund to the Direct Relief to Property Taxpayer Trust Fund.

20 Sec. 5. For purposes of the Director Relief to Property
21 Taxpayer Act, the definitions found in sections 6 to 8 of this act
22 shall be used.

23 Sec. 6. Owner means the owner of record, the vendee in
24 possession under a land contract, or one of the joint tenants or
25 tenants in common. The deed, trust instrument, contract, or
26 memorandum showing that the criteria of this section have been met
27 shall be on file on the appropriate public record as of December 31
28 of the year for which the property tax relief is sought, except

1 that if such instrument is not on file as of December 31, a copy of
2 such instrument shall be attached to the application before the
3 property tax relief shall be granted.

4 Sec. 7. Qualified claimant means the owner of qualified
5 real property as of December 31 of the year preceding the year that
6 refunds are authorized from the Direct Relief to Property Taxpayer
7 Trust Fund.

8 Sec. 8. Qualified real property means, as of December 31
9 of the tax year immediately preceding the year that refunds are
10 authorized from the Direct Relief to Property Taxpayer Trust Fund,
11 taxable real property located in Nebraska upon which was levied a
12 property tax.

13 Sec. 9. (1) The amount of relief granted to a qualified
14 claimant shall be an amount equal to the applicable percentage
15 multiplied by the property taxes, excluding interest, penalties, or
16 other assessments, levied against the qualified real property for
17 the tax year immediately preceding the year that disbursement of
18 funds is authorized from the Director Relief to Property Taxpayer
19 Trust Fund.

20 (2) For purposes of real property upon which there was
21 granted a homestead exemption, the amount of relief granted to a
22 qualified claimant shall be an amount calculated in the same manner
23 as described in subsection (1) of this section not to exceed the
24 tax due after application of the homestead exemption.

25 (3) The total amount of relief available for disbursement
26 from the Direct Relief to Property Taxpayer Trust Fund shall be
27 calculated by the Property Tax Administrator on or before August 31
28 of each year. This amount shall be based upon: For calendar year

1 2000, one hundred fifty million dollars; for calendar years 2001
2 and 2002 ninety-five percent of the sum of the amount in the fund
3 on August 17 of each year plus any amounts to be transferred by law
4 to the fund on or before December 31 of each year or one hundred
5 twenty-five million dollars, whichever is less; and for each
6 calendar year thereafter, ninety-five percent of the sum of the
7 amount in the fund on August 17 of each year plus any amounts to be
8 transferred by law to the fund on or before December 31 of each
9 year. No disbursement shall be made if the total amount of relief
10 available for disbursement is less than fifty million dollars.

11 (4) The applicable percentage shall be calculated by the
12 Property Tax Administrator on or before August 31 of each year.
13 The percentage shall be determined by dividing the total amount
14 available for relief by the amount of property taxes assessed
15 against all real property in the state in the tax year immediately
16 preceding the year that relief is authorized from the fund. The
17 percentage shall be rounded down to the nearest one-half
18 percentage.

19 Sec. 10. (1) A qualified claimant may file an
20 application for relief pursuant to the Direct Relief to Property
21 Taxpayer Act with the Property Tax Administrator on or before
22 January 31, 2000, and on or before January 31 each year thereafter.

23 (2) Applications shall be on forms prescribed and
24 provided by the Property Tax Administrator. The Property Tax
25 Administrator shall use due diligence to assure that applications
26 are easily accessible to all qualified applicants.

27 (3) Beginning in tax year 1999, the county treasurer
28 shall provide an application with the real property tax statements.

1 (4) The applications shall require the claimant to
2 provide the claimant's current mailing address, the claimant's
3 federal identification or social security number, and any other
4 information necessary to assure the qualification of the claim for
5 relief. The application procedures shall allow a qualified
6 claimant to file one application for multiple parcels of real
7 property by county within the state. The application shall be
8 signed by the qualified claimant.

9 (5) Failure to timely file shall constitute a waiver of
10 the refund for that year.

11 (6) The completed applications and all subsequent use of
12 the data, in which a reference to the claimant's identification or
13 social security number is used, shall be confidential.

14 Sec. 11. Upon receipt of an application under section 10
15 of this act, the Property Tax Administrator shall proceed to verify
16 that the claimant is qualified and determine the amount of the
17 property tax relief to be provided. It shall be the duty of the
18 county assessors and county treasurers to assist the Property Tax
19 Administrator in the examination of the records of the respective
20 offices and give the Property Tax Administrator any information in
21 their possession that will assist him or her in the
22 responsibilities under the Direct Relief to Property Taxpayer Act.
23 Information received from the county assessor or county treasurers
24 pursuant to the act shall not be deemed to be a public record
25 available from the Property Tax Administrator.

26 Sec. 12. The Property Tax Administrator shall review
27 the applications and approve, approve in part, or deny each
28 application for relief. Upon approval or approval in part of any

1 application, and on or before September 30 of each year, the
2 Property Tax Administrator shall certify the necessary information
3 to the Director of Administrative Services for issuance of
4 warrants. All relief shall be issued on or before December 31 of
5 the year in which disbursement of funds is authorized pursuant to
6 the Direct Relief to Property Taxpayer Trust Fund. The Property
7 Tax Administrator shall issue a notice of the determination to the
8 applicant by first-class United States mail to the address on the
9 application for relief. Notice shall be mailed on or before
10 September 30 of the year in which the determination is made by the
11 Property Tax Administrator.

12 Sec. 13. An applicant may file a protest with the
13 Property Tax Administrator's determination within thirty days after
14 the date the notice of determination on the application was mailed.
15 The applicant shall have the right to appeal from the finding of
16 the Property Tax Administrator with reference to the application
17 for relief to the Tax Equalization and Review Commission.

18 Sec. 14. For purposes of administering the Direct Relief
19 to Property Taxpayer Act, the Property Tax Administrator may
20 utilize up to three percent of the Direct Relief to Property
21 Taxpayer Trust Fund for the necessary and actual expenses to
22 administer the act. The amount available for administration shall
23 be calculated each year, beginning with calendar year 1999, based
24 upon the sum of the amount in the fund on August 17 each year plus
25 any amounts to be transferred by law to the fund on or before
26 December 31 of each year, including the amount of the fund
27 calculated for disbursement of the relief pursuant to section 9 of
28 this act.

1 Sec. 15. The Property Tax Administrator shall have the
2 authority to review all applications for relief within three years
3 after December 31 of the year in which the application for relief
4 was filed. The Property Tax Administrator shall adopt and
5 promulgate all rules and regulations necessary to carry out the
6 purposes of the Direct Relief to Property Taxpayer Act.

7 Sec. 16. Section 8-1120, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 8-1120. (1) Except as otherwise provided in this
10 section, the Securities Act of Nebraska shall be administered by
11 the Director of Banking and Finance who may employ such assistants
12 or counsel as may be reasonably necessary for the purpose thereof
13 and who may designate one of such assistants as an assistant
14 director. The director may delegate to such assistant director or
15 counsel any powers, authority, and duties imposed upon or granted
16 to the director under the act, such as may be lawfully delegated
17 under the common law or the statutes of this state. The director
18 may also employ special counsel with respect to any investigation
19 conducted by him or her under the act or with respect to any
20 litigation to which the director is a party under the act, except
21 that security issued by and representing an interest in or a debt
22 of, or guaranteed by, any insurance company shall be registered,
23 pursuant to the provisions of sections 8-1104 to 8-1109, with the
24 Director of Insurance who shall as to such registrations administer
25 and enforce the act, and as pertains to the administration and
26 enforcement of such registration of such securities all references
27 in the act to director shall mean the Director of Insurance.

28 (2) It shall be unlawful for the director or any of his

1 or her officers or employees to use for personal benefit any
2 information which is filed with or obtained by the director and
3 which is not made public. No provision of the act shall authorize
4 the director or any of his or her officers or employees to disclose
5 any such information except among themselves or when necessary or
6 appropriate in a proceeding or investigation under the act. No
7 provision of the act shall either create or derogate from any
8 privilege which exists at common law or otherwise when documentary
9 or other evidence is sought under a subpoena directed to the
10 director or any of his or her officers or employees.

11 (3) The director may from time to time make, amend, and
12 rescind such rules and forms as are necessary to carry out the act.
13 No rule or form may be made unless the director finds that the
14 action is necessary or appropriate in the public interest or for
15 the protection of investors and consistent with the purposes fairly
16 intended by the policy and provisions of the act.

17 In prescribing rules and forms the director may cooperate
18 with the securities administrators of the other states and the
19 Securities and Exchange Commission with a view to effectuating the
20 policy of the Securities Act of Nebraska to achieve maximum
21 uniformity in the form and content of registration statements,
22 applications, and reports wherever practicable. All rules and
23 forms of the director shall be published and mailed to each
24 registered broker-dealer.

25 (4) No provision of the act imposing any liability shall
26 apply to any act done or omitted in good faith in conformity with
27 any rule, form, or order of the director, notwithstanding that the
28 rule or form may later be amended or rescinded or be determined by

1 judicial or other authority to be invalid for any reason.

2 (5) Every hearing in an administrative proceeding shall
3 be public unless the director in his or her discretion grants a
4 request joined in by all the respondents that the hearing be
5 conducted privately.

6 (6) The Securities Act Cash Fund is created. All filing
7 fees, registration fees, and all other fees and all money collected
8 by or paid to the director under any of the provisions of the act
9 shall be remitted to the State Treasurer for credit to the fund,
10 except that registration fees collected by or paid to the Director
11 of Insurance pursuant to the provisions of the act shall be
12 credited to the Department of Insurance Cash Fund. The Securities
13 Act Cash Fund shall be used for the purpose of administering and
14 enforcing the provisions of the act, except that (a) transfers may
15 be made to the General Fund at the direction of the Legislature,
16 (b) and, for the calendar years of 2000 and 2001, two million
17 dollars shall be transferred in each year to the Affordable Housing
18 Trust Fund, and (c) on August 16 of 2000, 2001, 2002, and 2003,
19 thirteen million dollars shall be transferred to the Direct Relief
20 to Property Taxpayer Trust Fund. All of such money is appropriated
21 and shall be appropriated for such purposes. Any money in the
22 Securities Act Cash Fund available for investment shall be invested
23 by the state investment officer pursuant to the Nebraska Capital
24 Expansion Act and the Nebraska State Funds Investment Act.

25 (7) A document is filed when it is received by the
26 director. The director shall keep a register of all applications
27 for registration and registration statements which are or have ever
28 been effective under the Securities Act of Nebraska and all denial,

1 suspension, or revocation orders which have ever been entered under
2 the act. The register shall be open for public inspection. The
3 information contained in or filed with any registration statement,
4 application, or report may be made available to the public under
5 such rules as the director shall prescribe.

6 (8) Upon request and at such reasonable charges as he or
7 she shall prescribe, the director shall furnish to any person
8 photostatic or other copies, certified under his or her seal of
9 office if requested, of any entry in the register or any document
10 which is a matter of public record. In any proceeding or
11 prosecution under the act, any copy so certified shall be prima
12 facie evidence of the contents of the entry or document certified.

13 (9) The director in his or her discretion may honor
14 requests from interested persons for interpretative opinions.

15 Sec. 17. Section 44-116, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 44-116. All money collected by the Department of
18 Insurance for examination of the affairs of domestic, foreign, or
19 alien insurance companies and insurers as defined in and pursuant
20 to the Insurers Examination Act or any other provision of Chapter
21 44 or for valuing the reserve liabilities of life insurance
22 companies shall be remitted by the department to the State
23 Treasurer for credit to the Department of Insurance Cash Fund,
24 which fund is hereby created. Money in the Department of Insurance
25 Cash Fund may be used for transfers to the General Fund at the
26 direction of the Legislature and on August 16, 2000, and August 16,
27 2001, two million five hundred thousand dollars shall be
28 transferred to the Direct Relief to Property Taxpayer Trust Fund

1 and on August 16, 2002, and August 16, 2003, two million dollars
2 shall be transferred to the Direct Relief to Property Taxpayer
3 Trust Fund. Any money in the Department of Insurance Cash Fund
4 available for investment shall be invested by the state investment
5 officer pursuant to the Nebraska Capital Expansion Act and the
6 Nebraska State Funds Investment Act.

7 Sec. 18. Section 77-4602, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 77-4602. (1) Within fifteen days after the end of each
10 month, the Tax Commissioner shall provide a public statement of
11 actual General Fund net receipts and a comparison of such actual
12 net receipts to the monthly estimate certified pursuant to section
13 77-4601.

14 (2) Within fifteen days after the end of each fiscal
15 year, the public statement shall also include a summary of actual
16 General Fund net receipts and estimated General Fund net receipts
17 for the fiscal year.

18 (3) If the actual General Fund net receipts for the
19 fiscal year as reported in subsection (2) of this section are less
20 than the estimated receipts for the fiscal year, the Tax
21 Commissioner shall immediately certify to the director such
22 deficient amount. The State Treasurer shall immediately transfer
23 an amount equal to such deficient amount from the Cash Reserve Fund
24 to the General Fund upon certification by the director of such
25 deficient amount.

26 (4) If the actual General Fund net receipts for the
27 fiscal year as reported in subsection (2) of this section exceed
28 estimated receipts for the fiscal year, the Tax Commissioner shall

1 immediately certify to the director such excess amount. The State
2 Treasurer shall immediately transfer an amount equal to such excess
3 amount from the General Fund to the Cash Reserve Fund upon
4 certification by the director of such excess amount.

5 (5) Beginning on August 16, 2000, and on August 16 each
6 year thereafter, the State Treasurer shall transfer any balance in
7 the Cash Reserve Fund in excess of an amount that equals (a) three
8 percent of the certification amount required by section 77-4601 and
9 (b) any amounts required to satisfy subsection (3) of this section,
10 to the Direct Relief to Property Taxpayer Trust Fund.

11 Sec. 19. Section 77-4603, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 77-4603. (1) If an estimate of General Fund net receipts
14 is changed in a regular or extraordinary meeting of the Nebraska
15 Economic Forecasting Advisory Board and such change results in a
16 special session of the Legislature to revise current fiscal year
17 General Fund appropriations, the Tax Commissioner and the
18 Legislative Fiscal Analyst shall certify the monthly receipt
19 estimates, taking into consideration the most recent estimate of
20 General Fund net receipts made by the Nebraska Economic Forecasting
21 Advisory Board plus legislation enacted which has an impact on
22 receipts that was not included in the forecast. The new monthly
23 certification shall be made by the fifteenth day of the month
24 following the adjournment of the special session of the
25 Legislature.

26 (2) If an estimate of General Fund net receipts is
27 reduced in a regular or extraordinary meeting of the Nebraska
28 Economic Forecasting Advisory Board, the Tax Commissioner and the

1 Legislative Fiscal Analyst shall recertify the monthly receipt
2 estimates, taking into consideration the most recent estimate of
3 General Fund net receipts made by the Nebraska Economic Forecasting
4 Advisory Board plus legislation enacted which has an impact on
5 receipts that was not included in the forecast. The new monthly
6 certification shall be made by the fifteenth day of the month
7 following the meeting of the Nebraska Economic Forecasting Advisory
8 Board.

9 (3) The new certified annual and monthly receipt
10 estimates shall be used for the public statements required under
11 section 77-4602 and for all fund transfers provided for in section
12 77-4602.

13 Sec. 20. Section 84-612, Revised Statutes Supplement,
14 1998, is amended to read:

15 84-612. (1) There is hereby created within the state
16 treasury a fund known as the Cash Reserve Fund which shall be under
17 the direction of the State Treasurer. The fund shall only be used
18 pursuant to this section.

19 (2) The State Treasurer shall transfer funds from the
20 Cash Reserve Fund to the General Fund upon certification by the
21 Director of Administrative Services that the current cash balance
22 in the General Fund is inadequate to meet current obligations.
23 Such certification shall include the dollar amount to be
24 transferred.

25 (3) Any transfers made pursuant to subsections (2) and
26 (5) of this section shall be reversed upon notification by the
27 Director of Administrative Services that sufficient funds are
28 available.

1 (4) On or before August 1, 1994, the State Treasurer
2 shall transfer six million dollars from the Cash Reserve Fund to
3 the Job Training Cash Fund.

4 (5) The State Treasurer shall transfer funds from the
5 Cash Reserve Fund to the Roads Operations Cash Fund upon
6 certification by the Director of Administrative Services that the
7 current cash balance in the Roads Operations Cash Fund is
8 inadequate to meet current obligations as the result of delayed
9 receipt of federal funds. The certification shall include the
10 dollar amount to be transferred. The authority to transfer funds
11 pursuant to this subsection shall be in effect for the period July
12 1, 1998, through June 30, 1999.

13 (6) On or before September 1, 1998, the State Treasurer
14 shall transfer four million five hundred thousand dollars from the
15 Cash Reserve Fund to the General Fund.

16 (7) On or before September 1, 1998, the State Treasurer
17 shall transfer two million dollars from the Cash Reserve Fund to
18 the Reorganized School Assistance Fund.

19 (8) On June 15, 1999, the State Treasurer shall transfer
20 twelve million dollars from the Cash Reserve Fund to the General
21 Fund.

22 (9) On or before June 30, 1999, the State Treasurer shall
23 transfer eighty million dollars from the Cash Reserve Fund to the
24 General Fund.

25 (10) On August 16, 1999, the State Treasurer shall
26 transfer ninety-seven million seven hundred twenty-nine thousand
27 dollars from the Cash Reserve Fund to the Direct Relief to Property
28 Taxpayer Trust Fund. On June 15, 2001, the State Treasurer shall

1 ~~transfer twenty-eight million dollars from the Cash Reserve Fund to~~
2 ~~the General Fund.~~

3 Sec. 21. Original sections 8-1120, 44-116, 77-4602, and
4 77-4603, Reissue Revised Statutes of Nebraska, and section 84-612,
5 Revised Statutes Supplement, 1998, are repealed.

6 Sec. 22. Since an emergency exists, this act takes
7 effect when passed and approved according to law.